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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/737,199	12/16/2003	William G. Thorburn	MCE04-18	8790
47654	7590	02/21/2006	EXAMINER	
DAVID E. HUANG, ESQ. BAINWOOD HUANG & ASSOCIATES LLC 2 CONNECTOR ROAD SUITE 2A WESTBOROUGH, MA 01581				LUU, THANH X
ART UNIT		PAPER NUMBER		
		2878		
DATE MAILED: 02/21/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/737,199	THORBURN, WILLIAM G.	
	Examiner Thanh X. Luu	Art Unit 2878	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 23 January 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-7, 9, 10, 21 and 22 is/are rejected.
- 7) Claim(s) 8, 11-20 and 23 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 23 January 2006 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

This Office Action is in response to amendments and remarks filed January 23, 2006. Claims 1-23 are currently pending.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 4-7, 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Bard (U.S. Patent 4,686,361).

Regarding claims 1, 2, 4-7, 9 and 10, Bard discloses (see Fig. 1) a measurement apparatus for determining the angular position of a first member (8) with respect to a second member (1) about a rotation axis, comprising: an optical sensor head on the first member, the sensor head comprising a source (LED 5) of a light beam and a plurality of light detecting elements (6, 7); an offset beam generation element (4) on the second member, the offset beam generation element being operative to receive the light beam from the source and to return an offset light beam to the sensor head, the offset light beam providing a light spot that travels in a generally elliptical path (around) over the light detecting elements as relative rotation occurs between the first and second members; and a signal processor (see Fig. 2) operative to process electrical signals produced by the detecting elements to determine the position of the offset beam of light along the elliptical path. Since the light detecting elements can be traced in a generally

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elliptical path, as understood, the detecting elements form at least one annuli (represents a ring) surrounding the light source.

3. Claims 1, 2, 4-7, 9, 10, 21 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Ebina et al. (U.S. Patent 5,943,233).

Regarding claims 1, 2, 4-7, 9, 10, 21 and 22, Ebina et al. disclose (see Fig. 18) a measurement apparatus for determining the angular position of a first member (housing 540; see Fig. 19) with respect to a second member (550) about a rotation axis, comprising: an optical sensor head on the first member, the sensor head comprising a source (LED 530) of a light beam and a plurality of light detecting elements (531, 532); an offset beam generation element (545) on the second member, the offset beam generation element being operative to receive the light beam from the source and to return an offset light beam to the sensor head, the offset light beam providing a light spot that travels in a generally elliptical path (around; see Fig. 7) over the light detecting elements as relative rotation occurs between the first and second members; and a signal processor (see Fig. 20) operative to process electrical signals produced by the detecting elements to determine the position of the offset beam of light along the elliptical path. Since the light detecting elements can be traced in a generally elliptical path, as understood, the detecting elements form at least one annuli (represents a ring) surrounding the light source. Ebina et al. also disclose (see Fig. 18) an aperture (at 554 or 546 or 547) or a lens (see Fig. 46) between the sensor head and the offset beam generation element, to reduce the size of the light spot on the light detecting elements as claimed.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bard.

Regarding claim 3, Bard discloses the claimed invention as set forth above. Bard further teaches using a light source that is an LED or equivalent. Bard does not specifically disclose a VCSEL as claimed. However, VCSELs and LEDs are well known to be equivalent. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide a VCSEL in the apparatus of Bard to obtain a more efficient light source.

6. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ebina et al.

Regarding claim 3, Ebina et al. disclose the claimed invention as set forth above. Ebina et al. do not specifically disclose a VCSEL as claimed. However, VCSELs and LEDs are well known to be equivalent. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide a VCSEL in the apparatus of Ebina et al. to obtain a more efficient light source.

Allowable Subject Matter

7. Claims 8, 11-20 and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the

limitations of the base claim and any intervening claims.

Response to Arguments

8. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thành X. Luu whose telephone number is 571-272-2441. The examiner can normally be reached on M-F 6:00AM-3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Epps can be reached on 571-272-2328. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Thanh X. Luu
Primary Examiner
Art Unit 2878